



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 Post Office Square  
Boston, MA 02109-3912

SEP 24 2012

**Certified Mail - Return Receipt Requested**

Ms. Ellen J. Kullman, Chief Executive Officer  
E.I. du Pont de Nemours Company  
DuPont Building  
1007 Market Street  
Wilmington, DE 19898

Re: Federal Insecticide, Fungicide, and Rodenticide Act  
Stop Sale, Use, or Removal Order  
Docket No. SSURO-2012-015

Dear Ms. Kullman,

Please find enclosed a Stop Sale, Use, or Removal Order (SSURO) from the U.S. Environmental Protection Agency, Region 1 ("EPA") concerning the pesticide product "Harrell's 22-3-8 with 0.067% Acelepryn" (EPA Reg. # 352-734-52287). The order requires E.I. du Pont de Nemours Company ("DuPont") to immediately halt all distribution and use of all quantities and sizes of the violative product, as described in the enclosed order.

Paragraphs 7 – 9 of the SSURO inform you, in pertinent part, of the basis for this action. This SSURO is intended to ensure compliance with provisions of FIFRA by halting the sale, use or removal of violative pesticide products and pertains to all quantities and sizes of the Covered Product which are within your ownership, control or custody, wherever located. The action will protect against unreasonable adverse effects on human health and the environment. Please note that any violation of the terms or provisions of the SSURO may result in imposition of civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.

The product described in paragraphs 7 through 8 of the SSURO is a "distributor product" for which Harrell's LLC—a business headquartered in Lakeland, Florida—is the supplemental distributor and Respondent, DuPont, is the registrant. FIFRA regulations, 40 C.F.R. § 152.132, address "supplemental distribution" through which a registrant may distribute or sell its registered product under another person's name and address instead of the registrant's. Those regulations further provide that the distributor of any "distributor product" is considered an agent of the registrant under FIFRA and that both the registrant and the distributor may be held liable for violations pertaining to the distributor product.

Please contact EPA Region 1 FIFRA Inspector Raymond Putnam, at (617) 918-1523, within 10 days of receipt of this SSURO. At that time, you should be prepared to indicate the quantities of the Covered Product under your control or custody. You should also indicate what actions you have taken to ensure that the Covered Product is not released for distribution or sale in violation of this SSURO.

Thank you for your cooperation.

Sincerely,



Roger Janson, Technical Enforcement Manager  
Office of Environmental Stewardship  
EPA Region 1 – New England

Enclosures

cc: Jim Moon, Director of Procurement & Compliance  
Harrell's LLC  
PO Box 807  
Lakeland Fl. 33802

Roland Card, NE Sales Support/Operations Manager  
Harrell's LLC  
19 Technology Drive  
Auburn, MA 01501

Brad Robinson, Pesticide Program Leader  
Connecticut Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

Fatima El Abdaoui, Chief  
Pesticides Programs & FIFRA Enforcement  
USEPA REGION 3  
1650 Arch Street  
Mail Code: 3LC62  
Philadelphia, PA 19103-2029

IN THE MATTER OF:

1. The United States Environmental Protection Agency (“EPA”) is authorized under Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), as amended, 7 U.S.C. § 136k(a), to issue orders prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe that, *inter alia*, the pesticide or device is in violation of any provision of FIFRA, or the pesticide or device is intended to be distributed or sold in violation of any provision of FIFRA.
2. The Technical Enforcement Manager within the Office of Environmental Stewardship, EPA Region 1 has been duly delegated the authority to issue such stop sale, use, or removal orders (“SSUROs”) by the EPA Administrator.
3. FIFRA Section 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), provides it shall be unlawful for any person in any State to distribute or sell to any person any pesticide which is adulterated or misbranded.
4. A pesticide is “misbranded” pursuant to Section 2(q) of FIFRA, 7 U.S.C § 136 (q), in pertinent part, when its label or labeling bears any statement, design, or graphic representation relative to the pesticide or to its ingredients which is false or misleading in any particular or when its label does not bear the registration number assigned under FIFRA section 7, 7 U.S.C § 136e, to each establishment in which the pesticide was produced. *See* 40 C.F.R §156.10 (a)(1)(v) and 40 C.F.R §156.10(f).



5. The FIFRA regulations for general labeling requirements, 40 C.F.R. §156.10(a)(6)(i), states that final printed labeling must be submitted and accepted prior to registration.
6. The FIFRA regulations, at 40 C.F.R. § 152.132, address “supplemental distribution” through which a registrant may distribute or sell its registered product under another person’s name and address instead of, or in addition to, the registrant’s. Those regulations further provide that the distributor of any “distributor product” is considered an agent of the registrant under FIFRA and that both the registrant and the distributor may be held liable for violations pertaining to the distributor product.

## **B. BACKGROUND**

7. On April 30, 2012 a representative of the Connecticut Department of Energy and Environmental Protection, a duly delegated state lead agency for the enforcement of this Act pursuant to FIFRA Section 23(a), 7 U.S.C § 136u(a), conducted an inspection at Harrell’s LLC located at 34 Executive Drive, Danbury, CT 06810 and documented the following pesticide product being held for distribution or sale:
  - Harrell’s 22-3-8 with 0.067% Acelepryn, EPA Reg. # 352-734-52287
8. The pesticide product listed in Paragraph 7, above, was misbranded in that the label does not bear the correct registration number assigned under section 7, and the label bears two different establishment numbers (front panel and page 2). The label also appears to be inconsistent with the requirements for pesticide labels and with the EPA accepted parent label in several places, including but not limited to, the absence of mandatory NY state restrictions.
9. The product described in paragraphs 7 through 8, above, is a “distributor product” for which Harrell’s LLC—a business headquartered in Lakeland, Florida—is the supplemental distributor and Respondent, E.I. du Pont de Nemours Company, is the registrant.

## **B. ORDER**

10. **EPA hereby orders Respondent to IMMEDIATELY STOP sale, use, or removal of any and all of the pesticide product, as described in paragraphs 7 through 9 of this SSURO (the “Covered Products”). This includes the immediate cessation by Respondent of any distribution, sales, or offering for sale of such Covered Product, and encompasses any such distribution, sales, or offering for sale via the Internet or other Web-based media.**
11. This SSURO pertains to all quantities and sizes of the Covered Product which are within the ownership, control or custody of Respondent, wherever located. The Covered Product shall not be sold or distributed, used or removed other than in accordance with the

provisions of this SSURO or any further SSUROs that may be issued in connection with the Covered Product.

12. Any person violating the terms of this SSURO may be subject to civil or criminal penalties, as set forth in FIFRA Section 14, 7 U.S.C. § 136l.
13. The issuance of this SSURO shall not act as a waiver by EPA of any enforcement or other authority available to it under FIFRA or other laws.
14. The order shall be EFFECTIVE IMMEDIATELY upon receipt by DuPont.

### **C. OTHER MATTERS**

15. This SSURO specifically exempts the delivery of the Covered Product to any authorized agent of the United States government.
16. Each party shall bear its own costs and fees arising out of any proceedings which result from this action.
17. Respondent is hereby requested to notify this office in writing, within ten days, of receipt of the SSURO, of your plans for disposition of the Covered Product. Your reply should be sent to:

Raymond Putnam, Ph.D.  
United States Environmental Protection Agency, Region 1  
Office of Environmental Stewardship (OES 05-4)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
Phone: (617) 918-1523  
Fax: (617) 918-0523

Mr. Putnam is also your contact for technical questions or concerns you might have with respect to this Stop Sale, Use or Removal order.

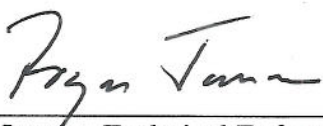
18. Respondent may assert a business confidentiality claim covering part or all of the above information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice.
19. For assistance regarding legal matters, you or your attorney, if one has been retained to represent you in this matter, are encouraged to contact:

Hugh W. Martinez, Senior Enforcement Counsel  
United States Environmental Protection Agency, Region 1

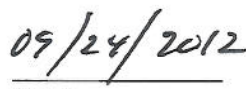
Office of Environmental Stewardship (OES 04-3)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
Phone: (617) 918-1867  
Fax: (617) 918-0867

20. This SSURO is not subject to Office of Management and Budget review under the Paperwork Reduction Act, and applies to E.I. du Pont de Nemours Company and its directors, officers, employees, agents, successors and assigns.

Thank you for your prompt attention to this Stop Sale, Use, or Removal Order.



Roger Janson, Technical Enforcement Manager  
Office of Environmental Stewardship  
EPA Region 1 – New England



Date

cc: Jim Moon, Director of Procurement & Compliance  
Harrell's LLC  
PO Box 807  
Lakeland Fl. 33802

Roland Card, NE Sales Support/Operations Manager  
Harrell's LLC  
19 Technology Drive  
Auburn, MA 01501

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